

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:07CR34**

**UNITED STATES OF AMERICA**

**VS.**

**KEVIN ANTHONY HARPER**  
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**ORDER**

**THIS MATTER** is before the Court on the Defendant's appeal from the denial by the Magistrate Judge of his motion for reconsideration of release pending sentencing.

**I. PROCEDURAL HISTORY**

The Defendant was indicted on April 3, 2007, with possession of counterfeit securities and being a felon in possession of a firearm. **Bill of Indictment, filed April 3, 2007.** On May 21, 2007, the Defendant entered into a plea agreement with the Government pursuant to which he agreed to plead guilty to two of the three counts of indictment. **Plea Agreement, filed May 21, 2007.** Defendant entered his plea at a Rule 11 hearing

conducted by the Magistrate Judge on May 30, 2007. The Defendant faces sentences of up to 20 years imprisonment on the first count and up to 10 years imprisonment on the second count.

The Magistrate Judge ordered the Defendant detained pending sentencing. After he formally entered his guilty plea, the Defendant moved the Magistrate Judge to reconsider release pending sentencing. By written order, the Magistrate Judge declined to order conditions of release. **Order, filed September 5, 2007.**

## II. STANDARD OF REVIEW

[T]he judicial officer *shall order* that a person who has been found guilty of an offense and who is awaiting imposition or execution of sentence . . . be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released[.]

**18 U.S.C. § 3143(a)(1) (emphasis added).**

## III. DISCUSSION

The Defendant cannot meet the requirements of this statute. As noted by the Magistrate Judge, the Defendant has an extensive criminal history, including convictions involving controlled substances and for

violent crimes. The Defendant has failed to appear in connection with some charges and was on release from state charges at the time of his arrest on these federal charges.

#### IV. ORDER

**IT IS, THEREFORE, ORDERED** that the Defendant's appeal is hereby **DENIED** and the Magistrate Judge's Order denying bond pending sentencing is **AFFIRMED**.

Signed: September 12, 2007



Lacy H. Thornburg  
United States District Judge

